

FILED
U.S. DISTRICT COURT
2011 DEC -2 P 1:49
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

Hon. Clark Waddoups/Trial
Hon. Paul Warner/Pre-Trial

**SUPPLEMENTAL AFFIDAVIT OF CALVIN N. ANDRUS IN SUPPORT OF
MOTION FOR PRELIMINARY INJUNCTIVE RELIEF**

I, Calvin N. Andrus, affirm state and declare under penalty of perjury of the laws of the State of Utah as follows:

1. I am appalled at the attitude of the management of WBGI in the manner in which they are treating some very serious charges. It is very clear, from reading the sworn affidavits filed by plaintiff Walter L. Wagner, that he was maligned when WBGI published on our website the indictment they had obtained, long after it was dismissed by the Court in Hawaii. He was also maligned when Mr. Michie ascribed to him the theft of the Visitor Center funds, when it is apparent that one or more of the defendants removed those funds, and the defendants are attempting to cover it up.
2. When plaintiff Wagner undertook this project, my 200 shares were worth \$30/share in 1994. After nearly ten years of dedicated effort on his part, he had constructed the botanical garden and made it a wonderful tourist attraction, such that company shares were selling for \$520/share in 2004 when he left the management. I was very pleased with what he had done, and with the large increase in share value.
3. Then, just two years later, under the new management team, in 2006 WBGI was selling shares at only \$250/share. Now, I believe they have become

essentially worthless, since the current management team has since sold off 90% of the land holdings plaintiff Wagner had accumulated for WBGI shareholders, and appears to have placed substantial liens on the remaining 10%. Moreover, tourism at the garden now appears to be at about 50% of its high value in 2004, notwithstanding an overall increase in tourism to the Big Island since 2004.

4. It is appalling that this management team believes they have the right to consistently malign the botanical garden founder, falsely obtain an indictment against him by what appears to be clear lying by defendant Francik, and falsely claim he stole the Visitor Center funds in order to cover up the embezzlement of those funds by one or more of the defendants.

5. I could care less about how he appropriated funds while he served as the WBGI president. The value of his efforts is what counts, and that was reflected in the strong increase in the value of the shares. However, that being said, I do not believe any of the allegations of "misappropriation" made against him by this management team. The types of appropriations he was making were clearly proper corporate expenditures, not "misappropriations", and the fact that he was unable to defend himself against those scurrilous charges by the chicanery of some of the defendants simply shows that he was set-up.

6. I urge this Court to consider how the shareholders feel about what this management team is doing to their investment. I also urge this Court to require that this management team not only remove the legal pleadings from our website, as they have no valid purpose being there some seven years after this current team took over management. They are only there to continue the maligning of the garden founder, and for no other fathomable reason, when he has no opportunity to respond. Since it is clear that some, if not all, of the postings are false, I believe it is proper for this Court to post the requested 'Corrective' submitted by the plaintiff.

7. I also urge this Court to do everything within its power to investigate who stole the Visitor Center funds from that account, and have that person or persons held accountable.

DATED: December 2, 2011

A handwritten signature in cursive script, appearing to read "Calvin N. Andrus", written over a horizontal line.

Calvin N. Andrus